

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

BOGUSLAW KIEPEK and ARLENE)
KIEPEK,)
)
Plaintiffs,)
)
v.) NO. _____
)
MICHAEL KALEBIC and WATKINS &) JUDGE _____
SHEPARD TRUCKING, INC.,) MAGISTRATE JUDGE _____
)
Defendants.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, 1441, and 1446, Defendants, Watkins & Shepard Trucking, Inc. and Michael Kalebic (“Defendants”) by counsel, file this Notice of Removal of this action from the Circuit Court in Anderson County, Tennessee, where it is now pending, to the United States District Court for the Eastern District of Tennessee at Knoxville based upon diversity of citizenship and an amount in controversy exceeding \$75,000.00. The grounds for removal are as follows:

Procedural Background

1. This action was commenced on or about September 5, 2017 by Plaintiffs filing of the Complaint in the Anderson County Circuit Court, Case No. B7LA0133 (the "Complaint"). True and accurate copies of the pleadings served upon the Defendants in this action are attached as **Exhibit A**.

2. The Complaint was served on Watkins & Shepard Trucking, Inc., on or about September 25, 2017, by service upon its registered agent. The Complaint was served on Michael Kalebic on or about September 21, 2017. (There is no file notation of these dates, but

opposing counsel has represented these as the correct dates of service of process.) The Notice of Removal is being filed within thirty (30) days after service of the Complaint in the matter; therefore, the removal is timely in accordance with 28 U.S.C. § 1446.

3. The Complaint contains allegations of negligence and negligence per se and both Plaintiffs individually seek over \$75,000.00 in compensatory damages. Mr. Kiepek seeks \$100,000.00, and Ms. Kiepek seeks \$200,000.00. (Complaint, ¶¶ 11 – 28).

4. The Plaintiffs are citizens and residents of Apple Valley, San Bernardino County, California. (Complaint, ¶¶ 1-2).

5. The Defendant, Watkins & Shepard Trucking, Inc. is a corporation organized under the laws of the State of Montana, with its principal place of business in Green Bay, Wisconsin. (Complaint, ¶ 5). Mr. Kalebic is a citizen and resident of Las Vegas, Nevada. (Complaint, ¶ 3).

6. The United States District Court for the Eastern District of Tennessee at Knoxville has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 as there is complete diversity of the parties, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

7. A copy of this Notice of Removal is being served by United States mail on counsel for Plaintiffs, and a Notice of Filing of Notice of Removal is being filed with the Anderson County Circuit Court in accordance with 28 U.S.C. § 1446(d). (Copies of those notices are attached as **Exhibit B**.) The necessary filing fees have been paid simultaneously with the filing of the Notice of Removal.

8. Defendants demand a jury to try this case.

WHEREFORE, Defendants, Watkins & Shepard Trucking, Inc. and Michael Kalebic, pray this Court consider the Notice of Removal as provided by law governing removal of cases to this Court and that this Court enter the appropriate orders to effect the removal of this case from the Anderson County Circuit Court to this Court.

Respectfully submitted,

LEWIS THOMASON

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*Attorneys for Defendants Watkins & Shepard
Trucking, Inc. and Michael Kalebic*

CERTIFICATE OF SERVICE

I hereby certify that on this the 20th day of October, 2017, a copy of the foregoing Notice of Removal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

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/s/ John R. Tarpley